

*Rogers et al. v. U.S. Dept. of Health and Human Servs., et al.*

# Exhibit A

**to Governor Henry McMaster's and Michael Leach's Motion for Summary Judgment and  
Memorandum in Support Thereof**

**Excerpts from Deposition of Dawn Barton**

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF SOUTH CAROLINA  
3 GREENVILLE DIVISION  
4 EDEN ROGERS AND BRANDY WELCH,  
5 Plaintiffs,

6 vs. C/A No. 6:19-cv-01567-JD

7 UNITED STATES DEPARTMENT OF HEALTH &  
8 HUMAN SERVICES; XAVIER BECERA, IN HIS  
9 OFFICIAL CAPACITY AS SECRETARY OF THE  
10 UNITED STATES DEPARTMENT OF HEALTH &  
11 HUMAN SERVICES; ADMINISTRATION FOR  
12 CHILDREN AND FAMILIES; JOOYEUN CHANG, IN  
13 HER OFFICIAL CAPACITY AS THE SENIOR  
14 OFFICIAL PERFORMING THE DUTIES OF THE  
15 ASSISTANT SECRETARY OF THE  
16 ADMINISTRATION FOR CHILDREN AND  
17 FAMILIES; JOOYEUN CHANG, IN HER OFFICIAL  
18 CAPACITY AS PRINCIPAL  
19 DEPUTY ASSISTANT SECRETARY OF THE  
20 ADMINISTRATION FOR CHILDREN AND  
21 FAMILIES; HENRY MCMASTER, IN HIS  
22 OFFICIAL CAPACITY AS GOVERNOR OF THE  
23 STATE OF SOUTH CAROLINA; AND MICHAEL  
24 LEACH, IN HIS OFFICIAL CAPACITY AS STATE  
25 DIRECTOR OF THE SOUTH CAROLINA  
DEPARTMENT OF SOCIAL SERVICES,  
Defendants.

16  
17  
18 VTC 30(b)(6) SC DSS, Through its agent:  
DEPOSITION OF: DAWN BARTON

19  
20 DATE: December 17, 2021  
TIME: 9:33 a.m.  
LOCATION: Zoom - Columbia, SC

21  
22 TAKEN BY: Counsel for the Plaintiffs  
23 REPORTED BY: Roxanne Easterwood, RPR  
24 VIDEOGRAPHER: Roosevelt Hamilton  
25

1 Q. Is that -- I'm sure that's something  
2 that DSS has.

3 A. Yeah, I would -- I would say that --  
4 that either Susan Roben or Dawn Grant could  
5 provide that information.

6 Q. Great. Thank you. And does DSS  
7 license potential foster parents?

8 A. Yes.

9 Q. Is DSS the only entity that can  
10 license foster parents in South Carolina?

11 A. Yes.

12 Q. Can potential foster parents apply to  
13 become foster parents directly through DSS?

14 A. Yes.

15 Q. And you mentioned this earlier, but  
16 what is kinship care?

17 A. So kinship care is -- is the agency's  
18 effort to place children and youth that can't  
19 remain with their -- in their family homes, place  
20 them with people who they're already connected to  
21 and know, and that could look like -- we define  
22 kinship care as relations through blood, marriage,  
23 or adoption, but we -- we ex- -- we extend that in  
24 South Carolina to also consider fictive kin  
25 underneath the kinship umbrella.

1           A.     Right. I mean, we don't discriminate  
2     whether you're -- you're single, married, whether  
3     you're a part of the LGBTQ community. I mean, you  
4     know, none of that -- none of that plays a role  
5     in -- in whether we license you or not.

6           Q.     So does DSS have any policies  
7     regarding the licensing of same-sex couples or  
8     LGBTQ people as foster parents in South Carolina?

9           A.     No.

10          Q.     And does it take into account sexual  
11     orientation when licensing? To the pro- -- to --  
12     to make clear how this is different than my last  
13     question, my last question was, does it take into  
14     account through the application process, and this  
15     question is, does it take into account when  
16     issuing a license?

17          A.     No.

18          Q.     Does DSS take any steps to actively  
19     recruit LGBTQ people to be foster parents?

20          A.     So, actually, and in my former -- so  
21     my other former roles within DSS, right before I  
22     started this role -- I started this role about  
23     three years ago, being the Permanency Management  
24     Director, but prior to that I was the -- I was the  
25     regional director for the Midlands region, and I

1 actually -- we did some targeted recruitment  
2 specifically for the LGBTQ community.

3 We -- we went to the Gay Pride Parade.  
4 We went to the Harriet Hancock Center and spoke to  
5 a group of the LGBTQ community, and in an effort  
6 to try to recruit folks from -- from that specific  
7 community.

8 Q. And why did you undertake those  
9 initiatives?

10 A. You want a very diverse group of  
11 foster families. You know, every- -- everybody --  
12 everybody does not look the same. Everybody's  
13 beliefs and values are not the same, and so --  
14 and -- and that goes for our children.

15 We have a lot of -- we have lots of  
16 different -- we have di- -- a diverse group of  
17 children in foster care, and so we -- we think  
18 everybody, regardless, brings value and can -- can  
19 help support our efforts to provide temporary care  
20 for children in need in South Carolina.

21 Q. You mentioned a diverse group of  
22 children in foster care in that last answer. Am I  
23 right in saying that DSS understands that there  
24 may be LGBTQ individuals in foster care who would  
25 be best served by having LGBTQ foster parents?

1 A. Yes.

2 Q. So then am I understanding correctly  
3 that DSS decides which children are placed in  
4 which foster homes?

5 A. Yes. We are the placement authority.

6 Q. And what does it mean to be in the  
7 care of a private CPA?

8 A. Can you expand on your question?

9 Q. Sure. Well, does it mean that a --  
10 if -- if a child is in the care of a private CPA,  
11 would it mean that that child is in a facility run  
12 by the private CPA?

13 A. The child is in the -- in the -- in  
14 the custody and care of the -- of DSS. The  
15 child's case managed by -- the child has a foster  
16 care case manager. The child has a guardian ad  
17 litem, many other folks involved with -- with  
18 that -- with a child in foster care.

19 The child-placing agency is supporting  
20 the foster family in -- in the home that -- that  
21 is -- that DSS has placed that child with. So --  
22 so we place children with foster families. CPAs  
23 are really a pathway, right, for families to get  
24 support and to help them through preparation to be  
25 licensed, and then when they're licensed, continue

1 earlier?

2 A. Yes.

3 Q. Are you familiar with a CPA called  
4 Miracle Hill Ministries?

5 A. Yes.

6 Q. And so Miracle Hill Ministries  
7 provides the type of referral or recommendation  
8 process that you mentioned earlier, recommending  
9 specific families for specific children?

10 A. Yes.

11 Q. Do private CPAs make any  
12 child-placement decisions on their own?

13 A. No.

14 Q. You mentioned earlier that DSS assigns  
15 case workers to work with children in foster care;  
16 is that right?

17 A. Yes.

18 Q. Is that -- that case worker, is that a  
19 DSS employee?

20 A. Yes.

21 Q. And does DSS assign case workers to  
22 work with foster families once a child is placed  
23 in their care?

24 A. Repeat that question.

25 Q. Sure. So imagine a child is in a

1 Q. So then how did DSS know that some  
2 provide more services than others?

3 A. You -- I mean, you just -- you hear  
4 and -- I mean, you hear about folks in the  
5 community. You see it all over social media of --  
6 of -- of certain organizations that are  
7 fundraising and supporting children and families  
8 who are supporting the foster care system.

9 Q. And is Miracle Hill one of the  
10 organizations that you've -- that you're heard  
11 about in these anecdotal settings about providing  
12 extra support to its families?

13 A. Not Miracle Hill specifically.

14 Q. Are there differences between the  
15 CPAs' reputations?

16 A. No.

17 Q. All CPAs are viewed as  
18 interchangeable?

19 MR. COLEMAN: Object to the form of the  
20 question.

21 But you can answer.

22 THE WITNESS: What -- what do you mean  
23 by interchangeable?

24 BY MS. SCHINDEL:

25 Q. Well, I guess I'm a little confused by



1 particular child-placing agency.

2 Q. Is it fair to say, then, that one of  
3 the added values that a -- a faith-based CPA, or  
4 any CPA, for that matter, brings to SC DSS is its  
5 ability to tap into its own network to recruit  
6 potential foster families that otherwise might not  
7 become or seek to become foster families?

8 MS. SCHINDEL: Objection. Leading.

9 THE WITNESS: So I think that every  
10 child-placing agency does a level of marketing and  
11 recruitment around -- around support for their  
12 foster families. I think that, depending on their  
13 connections in the community, like, how -- how  
14 deep those are rooted and how wide those are,  
15 may -- may impact the -- the level of additional  
16 services that -- support services that they're  
17 able to give -- give their families that they --  
18 they support, in general.

19 BY MR. COLEMAN:

20 Q. Okay. I think you testified earlier  
21 today that SC DSS has the sole, exclusive  
22 authority to license foster parents; is that  
23 right?

24 A. Yes.

25 Q. So a CPA can't license a foster home,

1 can they?

2 A. No.

3 Q. And a CPA could not prevent a  
4 prospective foster parent from being licensed by  
5 the State?

6 A. No.

7 MS. SCHINDEL: Objection. Leading.

8 BY MR. COLEMAN:

9 Q. Even today, with SC DSS's particular  
10 focus and emphasis on handling kinship foster care  
11 licensing, it's still true that a non-kinship and  
12 prospective foster parent who couldn't or didn't  
13 want to work with the CPA could apply to and work  
14 with SC DSS, correct?

15 A. Yes.

16 MS. SCHINDEL: Objection. Objection.  
17 Leading. Sorry.

18 BY MR. COLEMAN:

19 Q. Okay. You testified earlier that each  
20 child in the foster care system of South Carolina  
21 is assigned an SC DSS case worker; is that right?

22 A. Yes.

23 Q. Do you know if some CPAs also assign a  
24 staff member to be paired with or partnered with a  
25 child during the time that child is in a foster

1 is not sufficient. And, in fact, oftentimes they,  
2 I think, feel like they can't bill capacity,  
3 enough capacity, because they don't feel like the  
4 rate's sufficient.

5 Q. And -- and just to make sure I  
6 understood your testimony a moment ago. That --  
7 that reimbursement occurs only after a family has  
8 been licensed and after a child in foster care has  
9 been placed in the family's home; is that correct?

10 A. That's correct, and they're only  
11 receiving that funding while the child is placed  
12 in that home. So if the child moves from a  
13 placement in CPA A and moves over to CPA B,  
14 that -- that funding stops, and that funding  
15 follows the -- the child to the next placement.

16 Q. Is it also true --

17 MS. SCHINDEL: Objection, leading, to  
18 the last question.

19 BY MR. COLEMAN:

20 Q. Is it also true that a foster family  
21 moved from CPA A to CPA B, that -- while  
22 they're -- while they had a foster child in their  
23 home, that the funding would follow the foster  
24 family and the child to the new CPA?

25 A. Yes.

1 they do not currently?

2 A. We did -- we increased the admin rates  
3 within the last year, and we did a change order to  
4 the non-TFC contract, and we increased the admin  
5 rates, because we asked CPAs to assume a lot more  
6 work, because we transitioned all of that non-kin  
7 work over to them last July. And so they said, if  
8 we're going to do all this work, then we're -- we  
9 have to -- we have to have more money to do it and  
10 to build capacity.

11 And so Miracle Hill requested not to  
12 be recipients of that admin rate. So that's how I  
13 know that they're not receiving that admin rate.

14 Q. They're still licensed as and serving  
15 as a CPA, though?

16 A. Yes. Yes. The --

17 MS. SCHINDEL: Objection. Leading.

18 THE WITNESS: The foster care board  
19 payment goes directly to the foster families,  
20 so...

21 BY MR. COLEMAN:

22 Q. And the -- the name you just used for  
23 that funding, that's distinct from the  
24 administrative?

25 A. Yes.

1     this -- on here, with the exception of Miracle  
2     Hill, and -- and they're signed on the contract.  
3     Everybody is signed on the contract. Miracle Hill  
4     is the only one that has chosen not to receive the  
5     admin rate.

6             Q.     And why did Miracle Hill choose not to  
7     receive the admin rate?

8             MR. COLEMAN: Object to form.

9             But you can answer.

10            THE WITNESS: Yeah, I don't know.

11     They -- they didn't give reason. They -- they  
12     just requested that -- that they were interested  
13     in still being a part of the contract, but did not  
14     feel it necessary to receive the admin rate.

15     BY MS. SCHINDEL:

16            Q.     And who -- who did Miracle Hill make  
17     the request to when it -- when it asked to no  
18     longer receive the admin rate?

19            A.     I believe that went through our  
20     contract division, our procurement division.

21            Q.     And do you know what was discussed?

22            A.     I do not, other than the request that  
23     they -- they did not want the admin rate.

24            Q.     Are you the person most knowledgeable  
25     about whether Miracle Hill -- about why Miracle

1 Hill chose to no longer receive the admin rate  
2 within DSS?

3 A. I would say -- I would say yes.  
4 Although, I -- the request didn't come to me  
5 directly. But, again, I -- I don't know the re-  
6 -- there was no reason. They -- they were --  
7 just said they -- they didn't -- they didn't want  
8 the admin rate, and so we -- we said, okay.

9 I mean, we can certainly use those  
10 dollars towards other things. So there's still --

11 Q. You mentioned -- oh, sorry.

12 A. I was just going to say, just to --  
13 just to be clear, they're still signed on to the  
14 non-therapeutic contract and have agreed to abide  
15 by those terms of -- of that -- of that contract.  
16 They're just not being paid anything related to  
17 that.

18 Q. Does the fact that Miracle Hill no  
19 longer receives the admin rate change any of their  
20 obligations as the CPA?

21 A. No.

22 Q. Is Miracle Hill still providing  
23 services for DSS?

24 A. Yes.

25 Q. You had mentioned, in response to my